



NEW MEXICO
ENVIRONMENT DEPARTMENT

Ground Water Quality Bureau

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Draft: May 20, 2020

GROUND WATER QUALITY BUREAU
DISCHARGE PERMIT
Issued under 20.6.2 NMAC

Facility Name: Los Alamos County Compost Facility
Discharge Permit Number: DP-1894
Facility Location: 3500 Pueblo Canyon Road
Los Alamos, NM

County: Los Alamos

Permittee: Philo Shelton, Utilities Manager
Mailing Address: Los Alamos County Department of Public Utilities
1000 Central Avenue, Suite 130
Los Alamos, NM 87544

Facility Contact: Jennifer Baca, Engineering Associated
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Permitting Action: New

Permit Effective Date: DATE
Permit Expiration Date: DATE

NMED Permit Contact: Gerald Knutson
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MICHELLE HUNTER
Chief, Ground Water Quality Bureau
New Mexico Environment Department

Date

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I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this Discharge Permit, DP-1894, to the Los Alamos County Department of Public Utilities (permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978 §§74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Ground and Surface Water Protection Regulations, 20.6.2 NMAC.

NMED's purpose in issuing this Discharge Permit, and in imposing the requirements and conditions specified herein, is to control the discharge of water contaminants from the Los Alamos County Compost Facility (facility) in order to protect groundwater and those segments of surface water gaining from groundwater inflow for present and potential future use as domestic and agricultural water supply and other uses, and to protect public health. In issuing this Discharge Permit, NMED has determined that the requirements of Subsection C of 20.6.2.3109 NMAC have been met. Pursuant to Section 20.6.2.3104 NMAC, it is the responsibility of the permittee to comply with the terms and conditions of this Discharge Permit; failure to do so may result in enforcement action by NMED (20.6.2.1220 NMAC).

The activities that produce the discharge, the location of the discharge, and the quantity, quality, and flow characteristics of the discharge are briefly described as follows.

The composting facility is associated with the Los Alamos County's wastewater treatment plants. Stormwater runoff from the composting facility is collected in a synthetically lined impoundment for disposal by evaporation. The liner is buried by accumulated sediment.

The discharge contains water contaminants that may be elevated above the standards of Section 20.6.2.3103 NMAC.

The facility is located at 3500 Pueblo Canyon Road, approximately 3.7 miles east of Los Alamos, in Section 18, Township 19N, Range 07E, Los Alamos County. Groundwater most likely to be affected is at a depth of approximately 41 feet and has a total dissolved solids concentration of approximately 564 milligrams per liter.

The application (i.e., discharge plan) consists of the materials submitted by the permittee dated May 31, 2019 and materials contained in the administrative record prior to issuance of this Discharge Permit. The discharge shall be managed in accordance with all conditions and requirements of this Discharge Permit.

Pursuant to Section 20.6.2.3109 NMAC, NMED reserves the right to require a Discharge Permit Modification in the event NMED determines that the requirements of 20.6.2 NMAC are being or may be violated, or the standards of Section 20.6.2.3103 NMAC are being or may be exceeded. This may include a determination that structural controls and/or management practices approved under this Discharge Permit are not protective of ground water quality and that NMED may require

more stringent requirements to protect ground water quality. The NMED may require the permittee to implement abatement of water pollution and remediate ground water quality.

Issuance of this Discharge Permit does not relieve the permittee of the responsibility to comply with the WQA, WQCC Regulations, and any other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances.

The following acronyms and abbreviations may be used in this Discharge Permit.

| Abbreviation | Explanation | Abbreviation | Explanation |
|--------------|-----------------------------------------------|--------------------|----------------------------------|
| CFR | Code of Federal Regulations | NMSA | New Mexico Statutes Annotated |
| Cl | chloride | NO ₃ -N | nitrate-nitrogen |
| EPA | United States Environmental Protection Agency | TDS | total dissolved solids |
| gpd | gallons per day | TKN | total Kjeldahl nitrogen |
| mg/L | milligrams per liter | total nitrogen | = TKN + NO ₃ -N |
| mL | milliliters | WQA | New Mexico Water Quality Act |
| NMAC | New Mexico Administrative Code | WQCC | Water Quality Control Commission |
| NMED | New Mexico Environment Department | WWTF | Wastewater Treatment Facility |

II. FINDINGS

In issuing this Discharge Permit, NMED finds the following.

1. The permittee is discharging effluent or leachate from the facility so that such effluent or leachate may move directly or indirectly into groundwater within the meaning of Section 20.6.2.3104 NMAC.
2. The permittee is discharging effluent or leachate from the facility so that such effluent or leachate may move into groundwater of the State of New Mexico that has an existing concentration of 10,000 mg/L or less of TDS within the meaning of Subsection A of 20.6.2.3101 NMAC.
3. The discharge from the facility is not subject to any of the exemptions of Section 20.6.2.3105 NMAC.

III. AUTHORIZATION TO DISCHARGE

Pursuant to 20.6.2.3104 NMAC, it is the responsibility of the permittee to ensure that discharges authorized by this Discharge Permit are consistent with the terms and conditions herein.

The permittee is authorized to collect stormwater runoff from a sludge composting facility in a synthetically lined impoundment for disposal by evaporation.

[20.6.2.3104 NMAC, Subsection C of 20.6.2.3106 NMAC, Subsection C of 20.6.2.3109 NMAC]

IV. CONDITIONS

NMED issues this Discharge Permit for the discharge of water contaminants subject to the following conditions.

A. OPERATIONAL PLAN

| # | Terms and Conditions |
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| 1. | The permittee shall implement the following operational plan to ensure compliance with Title 20, Chapter 6, Parts 2 and 4 NMAC. [Subsection C of 20.6.2.3109 NMAC] |
| 2. | The permittee shall operate in a manner such that standards and requirements of Sections 20.6.2.3101 and 20.6.2.3103 NMAC are not violated. [20.6.2.3101 NMAC, 20.6.2.3103 NMAC, Subsection C of 20.6.2.3109 NMAC] |

Operational Actions with Implementation Deadlines

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| 3. | <p>Within 180 days following the effective date of this Discharge Permit (by DATE), the permittee shall submit an up-to-date diagram of the layout of the entire facility to NMED. The diagram shall include the following elements:</p> <ul style="list-style-type: none">• a north arrow;• the effective date of the diagram;• composting pad;• evaporation impoundment;• the lateral extent of the synthetic liner associated with the impoundment;• all storm drains inlets; and• all discharge lines to the evaporation impoundment. <p>Any element that cannot be directly shown due to its location inside of existing structures, or because it is buried without surface identification, shall be on the diagram in a schematic format and identified as such.</p> <p>[Subsection C of 20.6.2.3106 NMAC, Subsection A of 20.6.2.3107 NMAC]</p> |

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| 4. | <p>Within 90 days following the effective date of this Discharge Permit (by DATE), the permittee shall submit record drawings of the impoundment, impoundment liner, and final impoundment capacity calculations, certified by a licensed New Mexico professional engineer, to NMED. The submittal shall identify the measured surface area capable of contributing stormwater to the impoundment and a calculated volume of stormwater capable of entering the impoundment as a result of a 100-year, 24-hour storm event.</p> <p>[Subsections A and C of 20.6.2.1202 NMAC, Subsection C of 20.6.2.3109 NMAC, NMSA 1978, §§ 61-23-1 through 61-23-32]</p> |

Operating Conditions

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| 5. | <p>The permittee shall maintain a fence around the compost facility to restrict access by the general public and animals. The fence shall consist of a minimum of three strands of barbed wire and a locked gate. The permittee shall maintain the fence throughout the term of this Discharge Permit.</p> <p>[Subsections B and C of 20.6.2.3109 NMAC, NMSA 1978, § 74-6-5.D]</p> |
| 6. | <p>The permittee shall install and maintain signs indicating that the ponded stormwater at the facility is not potable. The permittee shall post signs at the facility entrance and other areas where there is potential for public contact with wastewater. All signs shall be printed in English and Spanish and shall remain visible and legible for the term of this Discharge Permit.</p> <p>[Subsections B and C of 20.6.2.3109 NMAC, NMSA 1978, § 74-6-5.D]</p> |
| 7. | <p>The permittee shall maintain the impoundment liner in such a manner as to avoid conditions that could affect the liner or the structural integrity of the impoundment. Such conditions include or may be characterized by the following:</p> <ul style="list-style-type: none">• erosion damage;• animal induced damage;• the presence of vegetation including aquatic plants, weeds, woody shrubs, or trees growing within five feet of the top inside edge of a sub-grade impoundment, within five feet of the toe of the outside berm of an above-grade impoundment, or within the impoundment itself;• the presence of large debris or large quantities of small debris in the impoundment;• evidence of seepage; or• evidence of berm subsidence. |

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| | <p>The permittee shall routinely control vegetation growing around the impoundment by mechanical removal in a manner that is protective of the impoundment liner.</p> <p>The permittee shall visually inspect the impoundment and surrounding berms on a monthly basis to ensure proper maintenance and shall generate a log describing each inspection. In the event that an inspection reveals seepage, any evidence of damage that threatens the structural integrity of an impoundment berm or liner, or damage that may result in an unauthorized discharge, the permittee shall enact the contingency plan set forth in this Discharge Permit.</p> <p>The permittee shall create and maintain a log of all impoundment inspections which describes the findings and repairs, the date of the inspection, and the name of the person responsible for the inspection. The permittee shall make the log available to NMED upon request.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]</p> |
| 8. | <p>The permittee shall preserve a minimum of two feet of freeboard between the liquid level in the impoundment and the elevation of the top of the impoundment liner. In the event that the permittee determines that two feet of freeboard cannot be preserved in the impoundment, the permittee shall enact the contingency plan set forth in this Discharge Permit.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]</p> |
| 9. | <p>The permittee shall properly manage all solids that accumulate in the synthetically lined impoundment as follows:</p> <ul style="list-style-type: none">- In the event that solids accumulation exceeds 50% of the maximum liquid depth (below two feet of freeboard) in the impoundment, the permittee shall remove and dispose of the solids from the impoundment to the composting facility.- Prior to removing any solids from the impoundment, the permittee shall submit a proposal to NMED for approval describing how the removal process will be protective of the synthetic liner. <p>[Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]</p> |

B. MONITORING AND REPORTING

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| 10. | <p>The permittee shall conduct the following monitoring, reporting, and other requirements listed below in accordance with the monitoring requirements of this Discharge Permit.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]</p> |

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| 11. | Unless otherwise specified by this Discharge Permit, or approved in writing by NMED, the permittee shall use sampling and analytical techniques that conform with the references listed in Subsection B of 20.6.2.3107 NMAC. [Subsection B of 20.6.2.3107 NMAC] |
| 12. | The permittee shall perform semi-annual monitoring during the following periods and reports submitted to NMED as follows: <ul style="list-style-type: none">• January 1st through June 30th – due by August 1st; and• July 1st through December 31st – due by February 1st. [Subsection A of 20.6.2.3107 NMAC] |

Monitoring Actions with Implementation Deadlines

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| 13. | Within 90 days following the effective date of this Discharge Permit (by DATE), the permittee shall install a staff gauge, demarked in tenth of a foot (0.1 ft) increments, in the synthetically lined evaporative impoundment. The staff gauge shall be situated and located so that it measures the maximum thickness and depth of solids and fluids above the synthetic liner. The permittee shall submit confirmation of staff gauge installation, i.e., a date-stamped photograph, location, i.e., a narrative description of the location choice, and a table of calculated impoundment volumes per foot of stormwater measured by the staff gauge to NMED within 30 days of completed installation of the gauge. [Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC] |

Facility Monitoring Conditions

| # | Terms and Conditions |
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| 14. | The permittee shall record the presence of stormwater in the impoundment and when present, measure the depth of stormwater in the evaporative impoundment on a weekly basis by reading the staff gauge to the nearest 0.1 foot and calculating the volume of stormwater within the impoundment. To ensure compliance with the two feet of freeboard requirement of this Discharge Permit, the permittee shall submit the weekly measured volume of stormwater in the impoundment including the remaining freeboard measurement to NMED in the semi-annual monitoring reports. |

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| | [Subsection A of 20.6.2.3107 NMAC, Subsections C and H of 20.6.2.3109 NMAC] |
| 15. | <p>The permittee shall collect a composite stormwater sample on a semi-annual basis (once every six months) from within the synthetically lined evaporative impoundment. The composite sample shall consist of a minimum of six equal aliquots collected around the entire perimeter of the evaporative impoundment and thoroughly mixed. If stormwater is present, the composite sample shall be analyzed for:</p> <ul style="list-style-type: none"> • total Kjeldahl nitrogen (TKN); • nitrate-nitrogen (NO₃-N); • total dissolved solids (TDS); and • chloride (Cl). <p>The permittee shall properly prepare, preserve, transport, and request analyses in accordance with the methods authorized in this Discharge Permit. The permittee shall submit analytical results to NMED in the semi-annual monitoring reports.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsections C and H of 20.6.2.3109 NMAC]</p> |

C. CONTINGENCY PLAN

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| 16. | <p>In the event that a groundwater exceeds a standard identified in Section 20.6.2.3103 NMAC as a result of this discharge during the term of this Discharge Permit, upon closure of the facility, or during the implementation of post-closure requirements, the permittee shall submit to NMED a Corrective Action Plan that proposes, at a minimum, source control measures and an implementation schedule. The permittee shall enact the Plan as approved by NMED.</p> <p>The NMED may require the permittee to abate water pollution consistent with the requirements and provisions of Section 20.6.2.4101, Section 20.6.2.4103, Subsections C and E of 20.6.2.4106, Section 20.6.2.4107, Section 20.6.2.4108, and Section 20.6.2.4112 NMAC.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection E of 20.6.2.3109 NMAC]</p> |
| 17. | <p>In the event that an inspection reveals significant damage exists, or is likely to exist, that affects the structural integrity of a lined impoundment or its ability to contain fluids, the permittee shall propose the repair or replacement of the impoundment liner by submitting a Corrective Action Plan to NMED for approval. The permittee shall submit the Plan to NMED within 30 days after discovery by the permittee or following notification from NMED that significant liner damage is evident. The Corrective Action Plan shall include</p> |

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| | <p>a schedule for completion of corrective actions and the permittee shall initiate implementation of the Plan following approval by NMED.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]</p> |
| 18. | <p>In the event that the permittee cannot preserve a minimum of two feet of freeboard in the impoundment, the permittee shall take actions authorized by this Discharge Permit and all applicable local, state, and federal regulations to restore the required freeboard.</p> <p>The permittee shall restore the two feet of freeboard by pumping and hauling the excess stormwater from the impoundment and disposing of it at an appropriately licensed or permitted facility. The permittee shall submit records of stormwater removal (e.g., copies of invoices) to NMED in the semi-annual monitoring reports.</p> <p>[Subsection A of 20.6.2.3107 NMAC]</p> |
| 19. | <p>In the event that a release (commonly known as a “spill”) occurs that is not authorized under this Discharge Permit, the permittee shall take measures to mitigate damage from the unauthorized discharge and initiate the notifications and corrective actions required in Section 20.6.2.1203 NMAC and summarized below.</p> <p>Within <u>24 hours</u> following discovery of the unauthorized discharge, the permittee shall verbally notify NMED and provide the following information.</p> <ol style="list-style-type: none"> The name, address, and telephone number of the person or persons in charge of the facility, as well as of the owner and/or operator of the facility. The name and address of the facility. The date, time, location, and duration of the unauthorized discharge. The source and cause of unauthorized discharge. A description of the unauthorized discharge, including its estimated chemical composition. The estimated volume of the unauthorized discharge. Any actions taken to mitigate immediate damage from the unauthorized discharge. <p>Within <u>one week</u> following discovery of the unauthorized discharge, the permittee shall submit written notification to NMED with the information listed above and any pertinent updates.</p> <p>Within <u>15 days</u> following discovery of the unauthorized discharge, the permittee shall submit a corrective action report/plan to NMED describing any corrective actions taken and/or to be taken relative to the unauthorized discharge that includes the following information.</p> <ol style="list-style-type: none"> A description of proposed actions to mitigate damage from the unauthorized discharge. |

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| | <p>b) A description of proposed actions to prevent future unauthorized discharges of this nature.</p> <p>c) A schedule for completion of proposed actions.</p> <p>In the event that the unauthorized discharge causes or may with reasonable probability cause water pollution in excess of the standards and requirements of Section 20.6.2.4103 NMAC, and the permittee does not effectively abate water pollution within 180 days after the permittee is required to give notice pursuant to Paragraph (1) of Subsection A of 20.6.2.1203 NMAC, the NMED may require the permittee to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC.</p> <p>Nothing in this condition shall be construed as relieving the permittee of the obligation to comply with all requirements of Section 20.6.2.1203 NMAC.</p> <p>[20.6.2.1203 NMAC]</p> |
| 20. | <p>In the event that NMED or the permittee identifies any failures of the discharge plan or this Discharge Permit not specifically noted herein, NMED may require the permittee to submit a Corrective Action Plan and a schedule for completion of corrective actions to address the failure(s). Additionally, NMED may require a Discharge Permit modification to achieve compliance with 20.6.2 NMAC.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection E of 20.6.2.3109 NMAC]</p> |

D. CLOSURE PLAN

Permanent Facility Closure Conditions

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| 21. | <p>In the event the permittee proposes to permanently close the synthetically lined evaporative stormwater impoundment, the permittee shall perform the following closure measures.</p> <p>Within <u>60 days</u> of ceasing to discharge to the impoundment(s), the permittee shall plug all lines leading to the impoundment so that a discharge can no longer occur.</p> <p>Within <u>60 days</u> of ceasing to discharge to the impoundment, the permittee shall evaporate or drain stormwater from the impoundment and dispose of it in accordance with all local, state, and federal regulations.</p> <p>Within <u>90 days</u> of ceasing to discharge to the impoundment, the permittee shall submit a solid removal and disposal plan to NMED for approval. The permittee shall initiate</p> |

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| | <p>implementation of the plan within 30 days following approval by NMED. The solid removal and disposal plan shall include the following information.</p> <ol style="list-style-type: none"> The method of solid <i>removal</i> from the impoundment. The method of <i>disposal</i> for all of the solids (and its contents) removed from the impoundment. The method shall comply with all local, state, and federal regulations, including 40 CFR Part 503. A schedule for completion of solid removal and disposal not to exceed one year from the date the permittee ceased discharge to the impoundment. <p>Within <u>one year</u> following completion of the solid removal and disposal, the permittee shall complete the following closure measures.</p> <ol style="list-style-type: none"> Remove all lines leading to and from the impoundment, or permanently plug and abandon them in place. Remove all compost, contaminated soil, or other material capable of creating an unlawful discharge. Perforate or remove the impoundment liner. Fill the impoundment with suitable fill. Re-grade the impoundment site to blend with surface topography, promote positive drainage, and prevent ponding. <p>When the permittee has met all closure and post-closure requirements and verified with date stamped photographic evidence, or an NMED inspection, the permittee may submit a written request for termination of the Discharge Permit to NMED.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection D of 20.6.2.4103 NMAC, 40 CFR Part 503]</p> |

E. GENERAL TERMS AND CONDITIONS

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| 22. | <p>RECORD KEEPING - The permittee shall maintain a written record of the following:</p> <ul style="list-style-type: none"> information and data used to complete the application for this Discharge Permit; any releases (commonly known as “spills”) not authorized under this Discharge Permit and reports submitted pursuant to 20.6.2.1203 NMAC; the operation, maintenance, and repair of all facilities/equipment used to treat, store, or dispose of wastewater; facility record drawings (plans and specifications) showing the actual construction of the facility and bear the seal and signature of a licensed New Mexico professional engineer; copies of monitoring reports completed and/or submitted to NMED pursuant to this Discharge Permit; |

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| | <ul style="list-style-type: none"> • the volume of wastewater or other wastes discharged pursuant to this Discharge Permit; • wastewater quality data collected pursuant to this Discharge Permit; • the maintenance, repair, replacement, or calibration of any monitoring equipment, or flow measurement devices required by this Discharge Permit; and • data and information related to field measurements, sampling, and analysis conducted pursuant to this Discharge Permit, including the following: <ul style="list-style-type: none"> ○ the dates, locations, and times of sampling or field measurements; ○ the name and job title of the individuals who performed each sample collection or field measurement; ○ the sample analysis date of each sample; ○ the name and address of the laboratory, and the name of the signatory authority for the laboratory analysis; ○ the analytical technique or method used to analyze each sample or collect each field measurement; ○ the results of each analysis or field measurement, including raw data; ○ the results of any split, spiked, duplicate, or repeat sample; and ○ a copy of the laboratory analysis chain-of-custody as well as a description of the quality assurance and quality control procedures used. <p>The written record shall be maintained by the permittee at a location accessible during a facility inspection by NMED for a period of at least five years from the date of application, report, collection or measurement and shall be made available to the department upon request.</p> <p>[Subsections A and D of 20.6.2.3107 NMAC]</p> |
| 23. | <p>INSPECTION and ENTRY - The permittee shall allow inspection by NMED of the facility and its operations that are subject to this Discharge Permit and the WQCC regulations. NMED may, upon presentation of proper credentials, enter at reasonable times upon or through any premises in which a water contaminant source is located or in which are located any records required to be maintained by regulations of the federal government or the WQCC.</p> <p>The permittee shall allow NMED to have access to and reproduce for their use any copy of the records, and to perform assessments, sampling or monitoring during an inspection for the purpose of evaluating compliance with this Discharge Permit and the WQCC regulations.</p> <p>Nothing in this Discharge Permit shall be construed as limiting in any way the inspection and entry authority of NMED under the WQA, the WQCC Regulations, or any other local, state, or federal regulations.</p> |

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| | [Subsection D of 20.6.2.3107 NMAC, NMSA 1978, §§ 74-6-9.B and 74-6-9.E] |
| 24. | <p>DUTY to PROVIDE INFORMATION - The permittee shall, upon NMED's request, allow for NMED's inspection/duplication of records required by this Discharge Permit and/or furnish to NMED copies of such records.</p> <p>[Subsection D of 20.6.2.3107 NMAC]</p> |
| 25. | <p>MODIFICATIONS and/or AMENDMENTS - In the event the permittee proposes a change to the facility or the facility's discharge that would result in a change in the volume discharged; the location of the discharge; or in the amount or character of water contaminants received, treated, or discharged by the facility, the permittee shall notify NMED prior to implementing such changes. The permittee shall obtain approval (which may require modification of this Discharge Permit) by NMED prior to implementing such changes.</p> <p>[Subsection C of 20.6.2.3107 NMAC, Subsections E and G of 20.6.2.3109 NMAC]</p> |
| 26. | <p>PLANS and SPECIFICATIONS - In the event the permittee proposes to construct a wastewater system or change a process unit of an existing system such that the quantity or quality of the discharge will change substantially from that authorized by this Discharge Permit, the permittee shall submit for NMED approval construction plans and specifications for the proposed system or process unit prior to the commencement of construction.</p> <p>In the event the permittee implements changes to the wastewater system authorized by this Discharge Permit that result in only a minor effect on the character of the discharge, the permittee shall report such changes (including the submission of record drawings, where applicable) as of January 1st and June 30th of each year to NMED.</p> <p>[Subsections A and C of 20.6.2.1202 NMAC, NMSA 1978, §§ 61-23-1 through 61-23-32]</p> |
| 27. | <p>CIVIL PENALTIES - Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or facilities, or any refusal or failure to provide NMED with records or information, may subject the permittee to a civil enforcement action. Pursuant to WQA 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the Discharge Permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to WQA 74-6-10(C) and 74-6-10.1, civil penalties of up to \$15,000 per day of noncompliance may be assessed for each violation of the WQA 74-6-5, the WQCC Regulations, or this Discharge Permit, and civil penalties of up to \$10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. In</p> |

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| | <p>any action to enforce this Discharge Permit, the permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Discharge Permit.</p> <p>[20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10 and 74-6-10.1]</p> |
| 28. | <p>CRIMINAL PENALTIES - No person shall:</p> <ul style="list-style-type: none"> • make any false material statement, representation, certification, or omission of material fact in an application, record, report, plan, or other document filed, submitted, or required to be maintained under the WQA; • falsify, tamper with, or render inaccurate any monitoring device, method, or record required to be maintained under the WQA; or • fail to monitor, sample, or report as required by a permit issued pursuant to a state or federal law or regulation. <p>Any person who knowingly violates or knowingly causes or allows another person to violate the requirements of this condition is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who is convicted of a second or subsequent violation of the requirements of this condition is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition or knowingly causes another person to violate the requirements of this condition and thereby causes a substantial adverse environmental impact is guilty of a third degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition and knows at the time of the violation that he is creating a substantial danger of death or serious bodily injury to any other person is guilty of a second degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15.</p> <p>[20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10.2.A through 74-6-10.2.F]</p> |
| 29. | <p>COMPLIANCE with OTHER LAWS - Nothing in this Discharge Permit shall be construed in any way as relieving the permittee of the obligation to comply with any other applicable federal, state, and/or local laws, regulations, zoning requirements, nuisance ordinances, permits, or orders.</p> <p>[NMSA 1978, § 74-6-5.L]</p> |
| 30. | <p>RIGHT to APPEAL - The permittee may file a petition for review before the WQCC on this Discharge Permit. Such petition shall be in writing to the WQCC within thirty days of the receipt of postal notice of this Discharge Permit and shall include a statement of the issues to be raised and the relief sought. Unless a timely petition for review is made, the decision of NMED shall be final and not subject to judicial review.</p> <p>[20.6.2.3112 NMAC, NMSA 1978, § 74-6-5.O]</p> |

| # | Terms and Conditions |
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| 31. | <p>TRANSFER of DISCHARGE PERMIT - Prior to the transfer of any ownership, control, or possession of this facility or any portion thereof, the permittee shall:</p> <ul style="list-style-type: none">• notify the proposed transferee in writing of the existence of this Discharge Permit;• include a copy of this Discharge Permit with the notice; and• deliver or send by certified mail to NMED a copy of the notification and proof that the proposed transferee received the notification. . <p>Until both ownership and possession of the facility are transferred to the transferee, the permittee shall continue to be responsible for any discharge from the facility.</p> <p>[20.6.2.3111 NMAC]</p> |
| 32. | <p>PERMIT FEES - Payment of permit fees is due at the time of Discharge Permit approval. Permit fees shall be paid in a single payment or shall be paid in equal installments on a yearly basis over the term of the Discharge Permit. Single payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date. Initial installment payments shall be remitted to NMED no later than 30 days after the Discharge Permit effective date; subsequent installment payments shall be remitted to NMED no later than the anniversary of the Discharge Permit effective date.</p> <p>Permit fees are associated with <u>issuance</u> of this Discharge Permit. Nothing in this Discharge Permit shall be construed as relieving the permittee of the obligation to pay all permit fees assessed by NMED. A permittee that ceases discharging or does not commence discharging from the facility during the term of the Discharge Permit shall pay all permit fees assessed by NMED. An approved Discharge Permit shall be suspended or terminated if the facility fails to remit an installment payment by its due date.</p> <p>[Subsection F of 20.6.2.3114 NMAC, NMSA 1978, § 74-6-5.K]</p> |